

(5) *Date and cause.* The date of the loss or destruction: If the date is not known, enter the date the loss or destruction was discovered. Include the cause of the loss together with relevant facts and details;

(6) *Carrier.* The name of the carrier if the loss occurred while the spirits were in transit;

(7) *Consignee.* The name and address of the consignee, in the case of spirits withdrawn without payment of tax which are lost before being used for research, development, or testing;

(8) *Theft.* If loss by theft, the facts establishing that the loss did not occur as the result of any negligence, connivance, collusion, or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them; and

(9) *Insurance.* In the case of a loss by theft, whether the claimant is indemnified or recompensed for the spirits or wines lost and if so, the amount and nature of indemnity or recompense and the actual value of the spirits or wines, less the tax.

(b) *Claims for abatement, credit or refund.* If a proprietor files a claim for abatement of an assessment, or for credit or refund of tax that has been paid or determined, for spirits, denatured spirits, articles, or wines lost or destroyed in bond, the claim must include all of the applicable information described in paragraph (a) of this section as well as the following:

(1) The date of assessment or payment of the tax for which abatement, credit or refund is claimed. If the tax has not been assessed or paid, give the date of the tax determination; and

(2) The name, plant number and address of the plant where the tax was determined, assessed or paid. If the tax was assessed against, or paid by, someone other than the proprietor, then give the name, address and capacity of the person who was assessed or paid the tax.

(c) *Supporting documents*—(1) *General.* If possible, the proprietor should support the information and details on all claims filed under this section with affidavits by persons having personal knowledge of the circumstances of the loss or destruction.

(2) *Losses in transit.* For claims on spirits, denatured spirits, articles, or wines lost while being transferred by a carrier, the claim must be supported by a copy of the bill of lading.

(3) *Spirits withdrawn without payment of tax.* If the lost spirits were withdrawn without payment of tax for research, development, or testing, the claim must be supported by a copy of the proprietor's sample record prescribed in subpart V of this part.

(26 U.S.C. 5008, 5370)

#### § 19.264 Claims on spirits returned to bonded premises—specific requirements.

(a) *General.* Section 5215(a) of the IRC allows for the return of tax paid or tax determined spirits to the bonded premises of a distilled spirits plant under certain conditions. In addition, section 5008(c) of the IRC allows a proprietor to file a claim for credit or refund of tax on the spirits returned to bonded premises under section 5215(a). For information on allowable returns see subpart Q of this part.

(b) *Claims for credit or refund.* A claim for credit or refund of tax on spirits returned to bonded premises under section 5215(a) must include the following information:

- (1) Quantity of spirits so returned;
- (2) Amount of tax for which the claim is filed;
- (3) Name, address, and plant number of the plant to which the spirits were returned and the date of the return;
- (4) The purpose for which the spirits were returned; and
- (5) The serial number of the gauge record for the returned spirits.

(c) *Puerto Rican and Virgin Islands spirits and imported rum.* If the alcoholic content of the spirits contain at least 92 percent Puerto Rican or Virgin Islands rum, or if the spirits contain rum imported from any area other than Puerto Rico and the Virgin Islands, the claim must show:

- (1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits, or derived from rum imported from any other area; and
- (2) The amount of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001, determined at the time of withdrawal from bond, on the Puerto Rican or Virgin Islands

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spirits, or on the rum imported from any other area, contained in the product.

(d) *Products subject to 26 U.S.C. 5010 tax credits.* A claim for credit or refund of tax on spirits containing eligible wine or eligible flavors must include the date and serial number of the record of tax determination and the effective tax rate at which the tax was paid or determined. If this information is not provided, the amount of tax claimed will be based on the lowest effective tax rate applied to the product.

(e) *Limits on claims.* Claims for credit or refund of tax must be filed by the proprietor of the plant to which the spirits were returned. The claim must be filed within six months of the date of the return. No interest is allowed on any claims for refund or credit.

(26 U.S.C. 5008, 5215)

### § 19.265 Claims relating to spirits lost after tax determination.

Claims for abatement, credit, or refund of tax under this part, relating to losses of spirits occurring on bonded premises after tax determination but prior to physical removal from such premises, will be prepared and filed in accordance with the regulations in § 19.263(b) and (c).

(26 U.S.C. 5008)

#### RULES REGARDING CREDITS, ABATEMENT, REMISSION, OR REFUND

### § 19.266 Claims for credit of tax.

A proprietor may file a claim for credit of tax, as provided in this part, after the tax has been determined, whether or not the tax has been paid. However, a proprietor may not anticipate allowance of a credit or make an adjusting entry in a tax return pending action on the claim.

(26 U.S.C. 5008, 5215)

### § 19.267 Adjustments for credited tax.

When a proprietor receives a notice of allowance of credit from TTB, including notification of credit for tax on spirits exported with benefit of drawback as provided in part 28 of this chapter, the proprietor will make an adjusting entry and an explanatory statement on its next excise tax re-

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turn. The proprietor will identify the notification of allowance of credit that authorizes the adjusting entry in the explanatory statement. If the allowable tax credit is greater than the tax due on the excise tax return, the proprietor will apply the balance of the tax credit to one or more following tax returns until the tax credit is exhausted.

(26 U.S.C. 5008, 5062)

### § 19.268 Allowance of remission, abatement, credit, or refund of tax.

The appropriate TTB officer is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

(26 U.S.C. 5008)

#### RULES FOR PUERTO RICAN AND VIRGIN ISLANDS SPIRITS

### § 19.269 Puerto Rican and Virgin Islands spirits.

(a) The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit, or refund for loss or destruction of distilled spirits, also apply to spirits brought into the United States from Puerto Rico or the Virgin Islands with respect to the following:

(1) Spirits lost while in TTB bond;

(2) Voluntary destruction of spirits in bond;

(3) Spirits returned to bonded premises after withdrawal without payment of tax; and

(4) Spirits returned to bonded premises after withdrawal upon tax determination.

(b) In addition to the information required by § 19.263, claims relating to spirits lost in bond must show the name of the producer and the serial number and date of the formula under which produced, if any.

(26 U.S.C. 5008, 5215)

## Subpart K—Gauging

### § 19.281 Scope.

This subpart covers gauging, which is the determination of the quantity and the proof of distilled spirits. Topics covered in this subpart include: The general requirements for gauging; when gauges are required at distilled